



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

OCT 07 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5966 0393

Ms. Kimberly Mosher, Director
Environmental Health and Safety
Eastern Materials, LLC
1250 Riverfront Center
Amsterdam, New York 12010

RE: Request for Information (RFI) Pursuant to Section 308 of the Clean Water Act
Eastern Materials, LLC – Asphalt Plant (NYU002291)
Docket No. CWA-IR-15-001

Dear Ms. Mosher:

The United States Environmental Protection Agency (EPA) is charged with the protection of human health and the environment under the Clean Water Act (CWA or Act), 33 U.S.C. §§ 1251 *et seq.* Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person/agency is in violation of Section 301 of the CWA, 33 U.S.C. § 1311, the EPA shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the compliance status of any facility and its related appurtenances.

You are hereby required, pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a), to submit to EPA in writing with accompanying photographs and documentation the following information regarding the subject Facility no later than **thirty (30) calendar days** of receipt of this RFI:

1. Engineering calculations or other appropriate methods that demonstrate definitively that a discharge would or would not occur from the Facility in the event of a heavy rain storm, including a 100-year storm;
2. A detailed drainage description and confirmation regarding the outfall location and discharge point from the two (2) catch basins located at the end of the Facility driveway at Route 28 and confirmation of the NYSDOT drainage specifications; and
3. The actions you have taken or will take to address the Potential Violation and Area of Concern specified in the enclosed Inspection Report.

Please note that if you do not obtain coverage under the MSGP and a 100-year storm event occurs that results in a discharge of stormwater from the Facility to a water of the U.S. via a point source, you will be in violation of the Clean Water Act and subject to civil penalties.

All information required to be submitted by this Request for Information shall be sent by certified mail or its equivalent to the following address:

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 50% Postconsumer content)

Douglas McKenna, Chief
Water Compliance Branch
Division of Enforcement and Compliance Assistance
290 Broadway, 20th Floor
New York, NY 10007-1866

Any documents to be submitted by you must be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 C.F.R. § 122.22), and shall include the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitted false information, including the possibility of fine and imprisonment for knowing violations.”

Failure to provide the required information may subject the facility to civil/criminal penalties pursuant to Section 309 of the CWA. Failure to comply with the RFI shall also subject the facility to ineligibility for participation in work associated with Federal contracts, grants or loans.

Enclosed is a copy of the inspection report detailing EPA's findings from the July 30, 2014 inspection at the Eastern Materials, LLC Facility.

If you have any questions regarding this Request for Information or the enclosed Inspection Report, please feel free to contact Kimberly McEathron of my staff via phone at (212) 637-4228 or via email at mceathron.kimberly@epa.gov.

Sincerely,



Douglas McKenna, Chief
Water Compliance Branch

Enclosure

cc: Joseph DiMura, P.E, Director, Bureau of Water Compliance Programs, NYSDEC
Tom Rudolph, Regional Water Engineer, NYSDEC Region 3
Erin Shirkey, NYSDEC Region 3 (erin.shirkey@dec.ny.gov)
Jody Kenly, Manager, Eastern Materials, LLC

EPA		United States Environmental Protection Agency Washington, D.C. 20460		Form Approved. OMB No. 2040-0057							
Water Compliance Inspection Report											
Section A: National Data System Coding (i.e., PCS)											
Transaction Code		NPDES		yr/mo/day		Inspection Type		Inspector		Fac Type	
1 N 2 5		3 N Y U 0 0 2 2 9 1 11		12 1 4 0 7 3 0 17		18 ~		19 R		20 2	
Remarks											
21											
Inspection Work Days		Facility Self-Monitoring Evaluation Rating		B1		QA		Reserved			
67 1		69		70		71		72		73 74 75 76 77 78 79 80	
Section B: Facility Data											
Name and Location of Facility Inspected (for industrial users discharging to POTW, also include POTW name and NPDES permit number)						Entry Times/Dates		Permit Effective Date			
Eastern Materials, LLC - Asphalt Plant 1007 Route 28 Kingston, NY 12401						07/30/2014 1:45 PM		N/A			
						Exit Times/Dates		Permit Expiration Date			
						07/30/2014 4:00 PM		N/A			
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)						Other Facility Data					
Jody Kenly, Manager Eastern Materials, LLC 1007 Route 28, Kingston, NY 12401 Phone: 845-331-4406						SIC Code: 2951 Lat, Long: 41.98484,-74.087698					
Name, Address of Responsible Official/Title/Phone and Fax Number(s)											
Kimberly Mosher, Environmental Health and Safety Director, Cranesville Block Company, Inc. 1250 Riverfront Center, Amsterdam, NY 12010 Phone: 518-684-6069											
Section C: Areas Evaluated During Inspection (Check only those areas evaluated)											
Permit		Flow Measurement		X Operations & Maintenance		CSO/SSO (Sewer Overflow)					
Records/Reports		Self-Monitoring Program		Sludge Handling/Disposal		X Pollution Prevention					
X Facility Site Review		Compliance Schedules		Pretreatment		Multimedia					
Effluent/Receiving Water		Laboratory		X Storm Water		Other:					
Section D: Summary of Findings/Comments (Attach additional sheets of narrative and checklists as necessary)											
See Attached Inspection Report											
Name(s) and Signature(s) of Inspector(s)				Agency/Office/Phone and Fax Numbers				Date			
Kimberly McEathron, Physical Scientist				EPA/DECA-WCB/ (212) 637-4228 FAX:x3953				10/2/2014			
Signature of Management Q/A Reviewer				Agency/Office/Phone and Fax Numbers				Date			
Justine Modigliani, P.E., Compliance Section Chief				EPA/DECA-WCB/ (212) 637-4268 FAX:x3953				11/3/14			
EPA Form 3560-3 (Rev 9-94) Previous editions are obsolete											

Section D: Summary of Findings/Comments

INTRODUCTION:

On July 30, 2014, the United States Environmental Protection Agency (EPA) conducted a Compliance Evaluation Inspection (CEI) at the Eastern Materials, LLC owned and operated asphalt plant located at 1007 Route 28 in Kingston, Ulster County, New York (Facility). Mr. Jody Kenly of Eastern Materials, LLC was present at the time of the inspection and represented the Facility. Ms. Kimberly McEathron, of EPA Region 2, led the CEI and conducted a Site walk-through. Weather conditions at the time of the CEI were sunny, dry and approximately 75°F.

Facility Description

The approximately 8-acre Facility owned and operated by Eastern Materials, LLC manufactures asphalt paving mixes operating under Standard Industrial Classification (SIC) Code 2951 (Asphalt Paving Mixtures). According to the Facility representative, Eastern Materials, LLC has owned and operated the Facility at this location since 2007 and prior to that the asphalt plant was operated by the family owned Kenly Materials since 1990. According to the Facility representative, Eastern Materials, LLC and Cranesville Block Company, Inc. are sister companies with common employees and management.

According to the Facility representative, the driveway is a right-of-way road that is used by the Facility and the neighboring property to the north which is owned and operated by AAA Fuel & Service, Inc. According to the Facility representative, the Facility includes a second asphalt plant with blue and brown colored plant was not in use at the time of the inspection (see photograph DSCN2460.JPG).

The Facility consists of material stock piles, a computer automated mixing and loading asphalt plant and a maintenance garage. Trucks unload material aggregate from a quarry to stockpiles in the eastern portion of the Facility that are then loaded as needed into hoppers (see photograph DSCN2456.JPG). The aggregate loaded in the hopper is transported to the asphalt plant dryer, burner and screen via conveyor belt (see photographs DSCN2457.JPG and DSCN2458.JPG). Then a tar and oil mixture is taken from one of two 16,000 gallon asphalt tanks, weighed and added to the aggregate using an automated system (see photographs DSCN2459.JPG and DSCN2460.JPG). The final product is then loaded onto trucks for delivery to the project site and/or customer. According to the Facility representative, customers include municipalities, homeowners and commercial businesses.

At the time of the inspection, EPA inspector McEathron observed material stockpiles of sand, coal patch and #1A, #1 and #2 size stones (see photograph DSCN2462.JPG). At the time of the inspection, EPA inspector McEathron observed tar dripping from the tank at the asphalt plant and cooling into a solid on the ground (see photographs DSCN2477.JPG – DSCN2480.JPG).

According to the Facility representative, oil changes and other general maintenance for forklifts and loaders used on-site is conducted at the garage. At the time of the inspection, EPA inspector McEathron observed empty drums were being stored outside and used oil drums stored in a storage shed adjacent to the garage without secondary containment (see photographs DSCN2469.JPG and DSCN2471.JPG). EPA inspector McEathron observed a dark stain on the unpaved ground adjacent to the garage (see photograph DSCN2469.JPG). According to the Facility representative, the loader is stored at this location and leaks oil onto the ground. The garage has one (1) vehicle bay. At the time of the inspection, EPA inspector McEathron observed a 1,000 gallon off-road diesel tank with secondary containment located outside with dark stains adjacent to the tank (see photograph DSCN2475.JPG). EPA inspector McEathron also observed a large propane

tank used for heating the asphalt plant (see photograph DSCN2483.JPG). The Facility has a spill absorbent material on-site.

According to the Facility representative and observations at the time of the inspection, trucks are rinsed with soap and water prior to being loaded with asphalt to prevent the asphalt from sticking to the truck. The truck soaping area is located northwest of the asphalt plant and south of the maintenance garage and EPA inspector McEathron observed truck rinse water containing soap pooling just south of the soaping area at the time of the inspection (see photograph DSCN2473.JPG and DSCN2474.JPG). According to the Facility representative, approximately once a month to twice a month the two (2) quarry trucks are washed using water and detergent on a concrete pad adjacent to the garage (see photograph DSCN2470.JPG).

Drainage Systems and Stormwater Discharges

The Facility is bordered on the west by railroad tracks and on the south and east by trees and vegetation (see photograph DSCN2472.JPG). At the time of the inspection, EPA inspector McEathron observed two (2) catch basins at the end of the driveway at Route 28. Stormwater runoff from the south end of the material stock piles flows south and east to a forested area (see photograph DSCN2461.JPG). Stormwater runoff from the north end of the material stock piles flows north to a pond on-site (see photographs DSCN2463.JPG, DSCN2464.JPG and DSCN2487.JPG). At the time of the inspection, EPA inspector McEathron observed water flowing from the pond on-site east along the driveway and into a catch basin at the end of the driveway along Route 28 (see photographs DSCN2484.JPG – DSCN2486.JPG). EPA inspector McEathron observed a second catch basin in the driveway located north of the first (see photograph DSCN2488.JPG). EPA inspector McEathron second catch basin did not contain standing water but contained a hole towards the first catch basin (see photograph DSCN2490.JPG).

Stormwater runoff from the center of the Facility and at the asphalt plant generally pools on-site or flows south and then pools (see photographs DSCN2481.JPG – DSCN2482.JPG).

At the time of the inspection, EPA inspector McEathron observed a drainage ditch located along the west side of the driveway at the Facility which terminates where the driveway becomes shared with the AAA Fuel & Service, Inc. (see photograph DSCN2465.JPG – DSCN2468.JPG).

ADDENDUM:

On September 3, 2014, the NYS Department of Transportation (NYSDOT) provided the Facility and EPA with drainage specifications along Route 28 (see attached). The NYSDOT drainage specifications depict a catch basin (“DR 40”) just off Route 28 at the entrance to the Facility that is connected to an outfall pipe. According to the drainage specifications, the outfall pipe outlets on the east side of Route 28 to a forested area approximately 1,300 feet uphill from and west of Onteora Lake. Onteora Lake outlets to the Esopus Creek which is tributary to the Hudson River.

POTENTIAL NONCOMPLIANCE ITEM:

1. At the time of the inspection, EPA inspector McEathron identified the following at the Facility:
 - a. The Eastern Materials, LLC Facility conducts industrial activity under Standard Industrial Classification (SIC) Codes 2951 (Asphalt Paving Mixtures) which falls under Sector D (Asphalt Paving and Roofing Materials and Lubricants), and therefore, is regulated under 40 C.F.R. § 122.26 and NYSDEC SPDES permits;

- b. The Eastern Materials, LLC Facility discharges stormwater into a catch basin located at Route 28, which according to NYSDOT drainage plans discharges via an outfall pipe to the east side of Route 28 approximately 1,300 feet uphill from and west of Onteora Lake;
- c. Eastern Materials, LLC does not have coverage for the Facility under the NYSDEC SPDES Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity ("MSGP" or "Permit"), an individual SPDES permit, nor had the Facility submitted No Exposure Certification;
- d. Based on EPA's observations at the time of the inspection and the distance between the Facility, catch basin, outfall pipe and Onteora Lake, it is possible that the Facility discharges to a water of the U.S. during a heavy rain or flooding event. NYSDEC and EPA requires facilities to obtain MSGP coverage for point source discharges of stormwater resulting from storm events, including a 100-year storm, in accordance with Sections 301 and 402(p) of the Clean Water Act.

AREA OF CONCERN:

1. At the time of the inspection, EPA inspector McEathron identified the following potential pollutant sources at the Facility, which may be transported via stormwater, in violation of the CWA or contribute to groundwater contamination and be in violation of NYS ECL Part 17-0803:
 - a. Material stock piles;
 - b. Dripping tar from asphalt plant tank;
 - c. Used oil drums in the storage shed without secondary containment;
 - e. Oil stains and spills;
 - f. Truck wash water containing detergent; and
 - g. Truck pre-loading rinse water containing detergent.

ATTACHMENTS:

Photograph Log

Photographs

NYSDOT Drainage Specifications

PHOTOGRAPH LOG:

Photograph Log – Unedited photographs taken July 30, 2014 by Kimberly McEathron with Nikon Coolpix AW100	
DSCN2456.JPG	Hoppers for material loading
DSCN2457.JPG	Conveyor brings material from hoppers to the asphalt plant
DSCN2458.JPG	Conveyor brings material from hoppers to the asphalt plant
DSCN2459.JPG	Asphalt plant and tanks
DSCN2460.JPG	Asphalt plant
DSCN2461.JPG	Vegetation along the southeast boundary of the Facility downhill from stockpiles
DSCN2462.JPG	Material stock piles in the southeast portion of the Facility
DSCN2463.JPG	Entrance to the material stock piles along east side of Facility
DSCN2464.JPG	Pond in the northeast area of the Facility
DSCN2465.JPG	Drainage ditch along driveway
DSCN2466.JPG	Drainage ditch along driveway
DSCN2467.JPG	End of drainage ditch along driveway
DSCN2468.JPG	Driveway facing northeast
DSCN2469.JPG	Storage area and staining adjacent to garage
DSCN2470.JPG	Exterior of Garage and truck washing area

DSCN2471.JPG	55 gallon and 1 gallon oil and chemical containers in storage shed without secondary containment, absorbent material visible
DSCN2472.JPG	Vegetation and berm along west edge of Facility adjacent to railroad tracks
DSCN2473.JPG	Truck “soaping” area
DSCN2474.JPG	Pooling water at truck “soaping” area
DSCN2475.JPG	1,000 gallon off-road diesel tank with secondary containment outside with stains visible
DSCN2476.JPG	Southwest corner of Facility
DSCN2477.JPG	Asphalt tank at asphalt plant with dripping tar visible
DSCN2478.JPG	Close up of dripping tar
DSCN2479.JPG	Close up of dripping tar
DSCN2480.JPG	Close up of cooled and solidified tar
DSCN2481.JPG	Pooling water beneath the tanks of the asphalt plant
DSCN2482.JPG	Pooling water southwest corner of the asphalt plant
DSCN2483.JPG	Propane tank located north of the asphalt plant
DSCN2484.JPG	Water flowing from the pond on-site down the driveway to a catch basin at Route 28
DSCN2485.JPG	Catch basin #1 at Route 28 receiving pond flow
DSCN2486.JPG	Water inside catch basin #1
DSCN2487.JPG	View of pond from northeast
DSCN2488.JPG	Second catch basin in driveway at Route 28
DSCN2489.JPG	Inside catch basin #2
DSCN2490.JPG	Hole in catch basin #2 towards catch basin #1



DSCN2456.JPG



DSCN2457.JPG



DSCN2458.JPG



DSCN2459.JPG



DSCN2460.JPG



DSCN2461.JPG



DSCN2462.JPG



DSCN2463.JPG



DSCN2464.JPG



DSCN2465.JPG



DSCN2466.JPG



DSCN2467.JPG



DSCN2468.JPG



DSCN2469.JPG



DSCN2470.JPG



DSCN2471.JPG



DSCN2472.JPG



DSCN2473.JPG



DSCN2474.JPG



DSCN2475.JPG



DSCN2476.JPG



DSCN2477.JPG



DSCN2478.JPG



DSCN2479.JPG



DSCN2480.JPG



DSCN2481.JPG



DSCN2482.JPG



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DSCN2490.JPG

